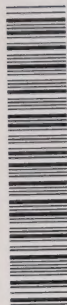


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national farmers union

In Union is Strength

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Submission

to the

House of Commons

Standing Committee

on

Finance, Trade and Economic Affairs

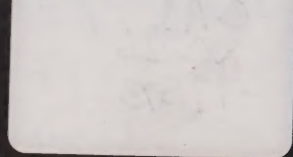
on the subject of

Bill C-42

Amendments to the Combines Investigation Act



June 9, 1977



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national farmers union

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National Farmers Union

Submission

to the

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Standing Committee

on

Finance, Trade and Economic Affairs

on the subject of

Bill C-42

Amendments to the Combines Investigation Act

Ottawa

June 9, 1977.

1. The National Farmers Union appreciates the opportunity to appear before your Committee to outline our views on Bill C-42.
2. It is, in our view, ironic that the preamble of Bill C-42 undertakes to legislate competition and "the integrity of the market place".
3. It represents an admission that the existing market system operating under the current economic structure with its large trans-national corporations has, in fact, threatened "freedom of economic opportunity and choice" and "the predatory exercise of economic power".
4. It is an indication that the concepts of a free market system adhered to in principle by this government does not in practice exist. If it did perform properly, the concept of public regulation as envisioned by the proposed powers to be vested in Bill C-42 would not be necessary.
5. We submit that if the current market economy as it regulates the pricing of agricultural products were to apply to all other goods and services, there would be no need for Bill C-42.
6. It is for this reason that a matter of major concern evolves around Section 4.5 and 4.6 and proposed regulation in the marketing of farm products.

7. Under Section 4.5, "regulated conduct" is stated to mean conduct in respect of which the following conditions are met:

"(a) The conduct has been expressly required or authorized by a public agency that is not appointed or elected by the persons, or by classes or representatives of the persons, whose conduct is subject to be regulated by such agency;

"(b) The public agency mentioned in paragraph (a) is expressly empowered, by or pursuant to an Act of Parliament or the legislature of a province, to regulate the conduct in the manner in which it is being regulated and has expressly directed its attention to the regulation of the conduct; and

"(c) The application of this Act to the conduct, in the specific circumstances of the case, would seriously interfere with the attainment of the primary regulatory objectives of an Act referred to in paragraph (b)."

8. The interpretation widely held on the matter of "regulated conduct" as described in this section and section 4.6 is that farm product marketing boards, whether at the federal or provincial level, whose board members are producer elected, would not be regarded as "regulated" and thereby qualify for exclusion from the possible intervention of the Competition Act.

9. The policy of our organization does not object to the concept of publicly appointed marketing commissions for farm products. Indeed, it supports the concept of such agencies which would for the purposes of this Act be regarded as regulated agencies.

10. Our single major caveat to the organization of publicly appointed marketing commissions is that legislation for such commissions be broadened to include a negotiation role for producers with the Commission and the trade in the attainment of agreement on the terms and conditions of trade.

11. To date, no acceptance of the principle of collective bargaining rights for primary producers of food products has been recognized by this government nor any provincial government with the exception of

Prince Edward Island. As a consequence, primary producers by and large continue to suffer second class rights with respect to the marketing and pricing of farm products.

12. In the absence of this basic right, we recommend the absolute exclusion of regulation over farm products currently marketed through producer-elected boards.

13. While the Minister of Consumer and Corporate Affairs, the Honourable Anthony Abbott, is reported to have publicly stated Bill C-42 does not affect marketing boards, we submit that if this is the true intent of the government, a specific paragraph must be added to Section 4.5 which provides unqualified exclusion from the Competition Act of producer-elected agricultural marketing boards.

14. We submit such a specific article of exclusion is justified on the grounds that many farm products currently marketed through producer elected marketing boards do not interfere in the competitive price setting mechanisms of the market place.

15. In circumstances where minimum price levels are set by boards, such prices are set in accordance with clearly defined cost of production formulae and scrutinized by public regulatory agencies - a situation which is almost unique to agricultural products.

16. On April 25, the Anti Inflation Board released a list of farm product marketing boards whose prices are in accordance with the Anti Inflation Board's program for marketing boards.

17. Marketing boards included in the AIB agreement are boards for industrial milk and eggs at the federal level and fluid milk, turkeys and broiler chicken at the provincial level.

18. In making the announcement, the AIB noted that it had been asked by the Federal Minister of Finance to develop an interpretation of the anti-inflation guidelines as they could apply to marketing boards.

That request, explained the AIB, followed an agreement by federal and provincial finance ministers that a selected list of marketing boards would establish prices in a manner consistent with the anti inflation program.

19. We draw this to your attention because when the concepts of the AIB were first announced it was made abundantly clear that farm gate prices were to be exempt from AIB guidelines.

20. The verbal commitment of policy makers at that time has fallen short of their undertaking. For this reason Bill C-42 must be amended to remove any doubt that farm gate prices for products marketed through boards are, in fact, exempt from the applications of the Act.

21. There is an important area of concern we ask you to consider relative to prices for farm products. We refer to price discrimination between producers which may take place in the purchase by processors of unregulated farm products of similar quality.

22. In this context, producers are competitors with each other for a share of the available market. As such, they possess no real bargaining power in price negotiation.

23. We use beef producers as an example where this type of discrimination is known to exist.

24. The Manitoba Livestock and Meat Commission in its report of June, 1976, noted that in the case of cattle sold on a rail grade basis, where grade and yield could be accurately determined:

"Price differences between producers were the result of price discrimination. Producers who received significantly higher prices than others did so because packers were prepared to give them preferential treatment. These producers might argue that the higher price was due to better price bargaining on their part. This is not the case."

25. The Commission alleged that packers gave some producers significantly "above average" prices only by getting other producers

to pay for this, in the form of "below average" prices, a fact which the distribution of prices clearly confirmed.

26. Section 34 (1) of Bill C-42 deals with price discrimination in a way which in our view does not cover this type of situation. We believe it should.

27. The current section refers to price discrimination in the sale or offer for sale in articles. It does not deal with the kind of discrimination which takes place where a buyer enjoys a monopoly situation and arbitrarily pays a higher purchase price to one producer at the expense of another. Such discrimination results in the injured party being rendered less competitive in the production of the product in question and clearly represents "the predatory exercise of economic power" referred to in the preamble of the Act.

28. Section 34(2) also deals only with the matter of discrimination in the context of "discount, rebate, allowance, price concession or other advantage is granted or offered to one customer over and above any discount rebate, allowance, price concession or other advantage that, at the time the articles are sold or offered for sale...."

29. We submit again that discrimination in the purchase of farm products of similar quality offered for sale in a situation where a monopoly buyer has power over establishment of price constitutes a serious violation of the spirit of this proposed Act.

30. We recommend Bill C-42 be amended to eliminate the opportunity for price discrimination directed against producers of unregulated products of similar quality.

31. A concern we share with others who have appeared before your committee is the doubt which now exists over the possibility that Bill C-42 may exceed its constitutional bounds.

32. We recommend that it be submitted to the Supreme Court for

judgment prior to its final passage to clear up any doubt over its effectiveness. This, we believe, is preferable to subjecting the Act to court scrutiny at some time in the future through all the legal expense and entanglements of a "test case".

33. We recommend to your Committee that it initiate action to have completed the final report of the Royal Commission on Corporate Concentration.

34. Since the resignation of Robert Bryce as chairman of that Commission, it is our view that this committee must demonstrate concern and interest that its findings be reported and its recommendations considered for relevance in the context of Bill C-42.

35. In summary, we recommend:

(1) That proper amendments be made to Sections 4.5 and 4.6 and related sections which expressly exempt farm products marketed by producer elected marketing boards from the application of the provision of Bill C-42.

(2) That Bill C-42 be amended to eliminate the opportunity for price discrimination by buyers who enjoy monopoly situations in the purchase of unregulated farm products of similar quality.

(3) That Bill C-42 be submitted to the Supreme Court for opinion on its constitutionality prior to final passage by the House of Commons.

(4) That action be initiated by this committee to press for the early completion of the report of the Royal Commission on Corporate Concentration with a view toward considering relevance of its findings in the context of Bill C-42 prior to its passage.

All of which is respectfully submitted by
THE NATIONAL FARMERS UNION.

